

IN THE COMMON PLEAS COURT OF MONTGOMERY, OHIO  
CIVIL DIVISION

JOHN H. PETT  
22 E. Pease Ave.  
West Carrollton, OH 45449

Case No. \_\_\_\_\_

Judge: Plaintiff,

Vs.

CITY OF WEST CARROLLTON, OHIO  
300 Central Avenue  
West Carrollton, OH 45449

COMPLAINT FOR PERSONAL  
INJURIES; WITH JURY  
DEMAND ENDORSED HEREON

And

JEREMY N. BRANHAM, INDIVIDUALLY  
AND IN HIS CAPACITY AS A CITY OF  
WEST CARROLLTON POLICE OFFICER  
c/o City of West Carrollton, Ohio  
West Carrollton, OH 45449

- unknown Address

And

DAVID J. WESSLING, INDIVIDUALLY AND  
IN HIS CAPACITY AS A CITY OF WEST  
CARROLLTON POLICE OFFICER  
c/o City of West Carrollton, Ohio  
West Carrollton, OH 45449

- unknown address

Defendants,

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Now comes John H. Pett, and claims as follows:

JURISDICTION

1. This cause of action arises under the Fourth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Title 42 U.S.C. 1983 and 1985, as well as the laws of the State of Ohio.

PARTIES

2. Defendant City of West Carrollton is a municipal corporation, chartered under the laws of the State of Ohio and located in Montgomery County, State of Ohio and is responsible for the hiring and training of personnel of the City of West Carrollton Police Department.
3. Defendant City of West Carrollton pursuant to law, operates the City of West Carrollton Police Department, which the City has the duty to operate in a lawful manner so as to preserve the peace of the City and preserve to the citizens of West Carrollton the rights, privileges and immunities guaranteed them by all of the laws of the State of Ohio, the United States and by the United States Constitution, all under color of State law.
4. Defendant City of West Carrollton individually and through its agents and employees is responsible by law for enforcing departmental regulations of the West Carrollton Police Department, including but not limited to those orders, rules, instructions and regulations concerning the detention of citizens, the safety of citizens while be detained by the West Carrollton Police, regulations concerning the use of force and for ensuring that officers obey the State and Federal Constitution and State and Federal Laws.
5. At all times relevant hereto, Defendants Jeremy N. Branham and David J. Wessling were and presently are duly commissioned and acting police officers of the Defendant City of West Carrollton and were acting within the scope of said employment. Said Defendants are being sued individually and in their official capacity.
6. At all times relevant hereto, Plaintiff John H. Pett, was and presently is a resident of the County of Montgomery, State of Ohio.

#### FACTS

7. On October, 6, 2011, Plaintiff John H. Pett, was at his place of residence located at 22 E. Pease Ave. West Carrollton, OH 45449, and was wrongfully detained by Defendants, Branham and Wessling,
8. Defendant Branham requested Plaintiff Pett to accompany him to his squad car to be arrested for resisting arrest.
9. Defendants were told by several witnesses including the Plaintiff that the Plaintiff was unable to place his hands behind his back due to a previous surgery.
10. Defendant Branham, using excessive and unnecessary force to pat down the Plaintiff.
11. Defendants Wessling and Branham jerked the Plaintiffs arms behind his back to cuff him.
12. Defendants called an ambulance to take Plaintiff to the hospital to access his injuries.

13. While Defendant Branham escorted the Plaintiff, the Defendant drove at increased speed and weaved off the highway to the rumble strip on the side of said highway, while the Plaintiff was tossed around the back seat of the police vehicle because he was not put into his seatbelt by the Defendant.
14. Plaintiff was never read his Miranda Rights and was unaware of his charges until he was placed in jail.

#### **FIRST CAUSE OF ACTION**

15. Plaintiff realleges each and every allegation contained in paragraph 1 through 14 as if fully rewritten here.
16. Defendants Wessling and Branham, and the City of West Carrollton, separately and in concert, intentionally, negligently and with complete and deliberate indifference to the right of Plaintiff John H. Pett, caused Plaintiff to be deprived of his constitutional rights, including but not limited to those guaranteed Plaintiff Pett under the Fourth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution by:
  - a. Using a degree of force that was unreasonable under the circumstances and in violation of Plaintiff's right to be free of an unreasonable seizure under the Fourth and Fourteenth Amendments to the U.S. Constitution;
  - b. Subjecting the Plaintiff to punishment without benefit of a trial by jury in violation of his rights under the Sixth and Eighth Amendments to the U.S. Constitution.
17. As a direct and proximate result of the actions or inactions of Defendants David J. Wessling and Jeremy N. Branham, and the City of West Carrollton, Plaintiff John H. Pett has sustained injuries as set forth hereinabove and has been subject to the deprivation of his rights, privileges and immunities secured to him by the Laws and Constitutions of the United States and State of Ohio.

#### **SECOND CAUSE OF ACTION**

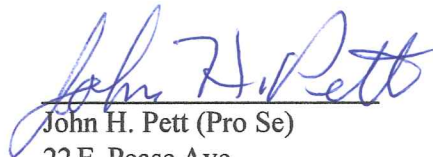
18. Plaintiff realleges each and every allegation contained in paragraphs 1 through 17 as if fully rewritten herein.
19. Defendant City of West Carrollton, under color of law, intentionally, negligently and with complete and deliberate indifference to the rights of Plaintiff authorized, permitted and tolerated the custom and practice of the unconstitutional and excessive force by members of the West Carrollton Police Department and, in particular, Defendants David J. Wessling and Jeremy N. Branham by:
  - a. Failing to appoint, promote, train and supervise members of the West Carrollton Police Department who would enforce the laws in effect in the State of Ohio and who would protect the constitutional rights of the people of the State of Ohio;
  - b. Failing to require chief administrators of the West Carrollton Police Department to communicate procedures and policies regarding the detainment of private

citizens that were consistent with the Fourth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, and

- c. Permitting the policy and custom of using unreasonable force to exist and be followed by the West Carrollton Police Department, thereby proximately causing the denial of the Plaintiff s rights.

- 20. As a direct and proximate result of the actions or inactions of the Defendant City of West Carrollton, Plaintiff John H. Pett has sustained the injuries as set forth hereinabove and has been subjected to the deprivation of his rights, privileges and immunities secured to him by the Laws and Constitutions of the United States and State of Ohio.

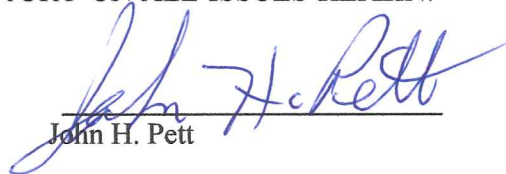
WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in the amount of Five Hundred Thousand Dollars (\$500,000.00) as and for compensatory damages and Five Hundred Thousand Dollars (\$500,000.00) as and for punitive damages, all costs incurred herein, and any other such relieve the Court may deem just and equitable.



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**JURY DEMAND**

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL ISSUES HEREIN.



John H. Pett